

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D.C. Chartered HEALTH PLAN, INC.,

Respondent.

Civil Action No. 2012 CA 008227 2
Judge Anthony C. Epstein
Calendar 15
Next Event: Status Hearing
July 9, 2021, at 11:00 am

**THE REHABILITATOR’S MOTION TO APPROVE THE
CLOSING AGREEMENT WITH THE INTERNAL REVENUE SERVICE**

COMES NOW Karima M. Woods, Commissioner of the District of Columbia Department of Insurance, Securities and Banking (“DISB”), in her statutory capacity as Rehabilitator of D.C. Chartered Health Plan, Inc. (“Chartered”), by and through Daniel L. Watkins, Special Deputy Rehabilitator (collectively referred to as “Rehabilitator”) and their attorney, and request that this Court enter an Order approving the Closing Agreement with the Internal Revenue Service (“IRS”) agreed to by the Rehabilitator.

In support of this Application, the Rehabilitator respectfully shows and represents to the Court the following:

1. Chartered is a District of Columbia-domiciled Health Maintenance Organization (“HMO”). On October 19, 2012 (“Rehabilitation Date”), this Court entered its Rehabilitation Order appointing the Commissioner DISB as the Rehabilitator for Chartered.

2. Pursuant to the Rehabilitation Order and D.C. Code §§ 31-1303, 31-1310 through 31-1312, and 31-3420, the Rehabilitator acts for and on behalf of Chartered, and is vested by operation of law with title to all of the property, contracts, rights of action, and books and records of Chartered. In accordance with D.C. Code §§ 31-1303, *et. seq.*, the Rehabilitator has marshaled all known assets of Chartered and administered them under the general supervision of this Court pursuant to the Plan of Reorganization approved by the Court on March 1, 2013. Periodic reports and accountings to the Court have been filed by the Rehabilitator.

3. At March 31, 2021, the known remaining assets of Chartered totaled \$4,560,269 in cash. There are no restrictions or encumbrances upon these assets, which are available to pay remaining Class 1 expenses and Class 3 claims of Chartered.

4. Class 3 healthcare provider claims and appeals allowed in the Rehabilitation totaled \$67,035,642. Payments for 83.88% of reported and allowed Class 3 healthcare provider claims and appeals were approved by the Court and distributed in late 2013 and 2014 totaling \$56,563,378. A balance of \$10,472,264 in Class 3 healthcare provider claims remain unpaid.

5. On April 29, 2021, the Rehabilitator filed a motion for authority to dispose of Chartered's records no longer needed in the administration of the estate at a cost of approximately \$275,000. By Order entered May 28, 2021, this Court approved the Rehabilitator's motion.

6. A federal income tax matter has complicated the timely closure of the Chartered estate. Chartered is part of a consolidated group with D.C. Healthcare Systems, Inc. ("DCHSI"). DCHSI has not filed a tax return since tax year 2010 so Chartered has filed tax returns for tax years 2011-2019 which the Internal Revenue Service has accepted. The Rehabilitator has worked to resolve federal tax issues through a settlement with the IRS regarding the total amount owed for taxes, penalties, and interest on Alternative Minimum taxes ("AMT") and other Miscellaneous Penalties. Those efforts

have resulted in a Closing Agreement wherein the IRS agrees to waive approximately \$240,000 in penalties and interest when Chartered pays \$185,405.35 in AMT and Miscellaneous Penalties owed. The Closing Agreement is attached to this motion as **Exhibit A**. The Rehabilitator and Special Deputy are ultimately personally liable for federal taxes if tax issues are not resolved and the IRS seeks payment after estate assets have been distributed. The Closing Agreement alleviates this potential liability by resolving Chartered's tax issues with the IRS.

7. The Rehabilitator seeks approval from the Court of the Closing Agreement entered into by the Rehabilitator and the IRS and authorization to pay \$185,405.35 to the IRS in full and complete satisfaction of its tax liabilities to the federal government.

8. The Rehabilitator will provide notice of this application to the service list in this proceeding and to thirty (30) Class 3 creditors with claims that total over 90% of Class 3 claims.

9. The Rehabilitator believes and states to the Court that the settlement of Chartered's tax liabilities through the attached Closing Agreement best facilitates closing of this estate by resolving Chartered's and the Rehabilitator's potential tax exposures and is in the best interest of the Chartered, its creditors and the estate.

10. The Rehabilitator recommends that the Order approve the Closing Agreement and authorize the Rehabilitator to pay the IRS \$185,405.35. Because the Closing Agreement contemplates payment to the United States Treasury by July 2, 2021, the Rehabilitator respectfully requests that the Court rule promptly on this Motion as soon as the time for responses has expired pursuant to SCR - Civil Rule 12-I(e).

WHEREFORE, the Rehabilitator hereby moves this Court for an Order approving the Closing Agreement and authorizing payment of \$185,405.35 to the United States Treasury/IRS. The Rehabilitator hereby requests that the Court enter said Order without a hearing on this Application

unless a specific objection, with a request for hearing, is filed with the Court and served upon the Rehabilitator within seventeen (17) days of the filing and service of this Motion.

Date: June 2, 2021

Respectfully submitted,

/s/ Richard E. Hagerty

Richard E. Hagerty (D.C. Bar No. 411858)
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*Attorneys for the Rehabilitator and D.C. Chartered
Health Plan, Inc.*

RULE 12-I(a) CERTIFICATION

I hereby certify that given the large number of Class 3 creditors in this manner requesting and obtaining their consent to the relief requested in this Motion is not practical.

/s/ Richard E. Hagerty

Richard E. Hagerty

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2021, a copy of the foregoing *Rehabilitator's Motion to Approve the Closing Agreement with the IRS* and Proposed Order was filed and served by e-mail upon:

Karima M. Woods, Rehabilitator
c/o Adam Levi
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and Banking
Office of the General Counsel
1050 First Street, NE, Suite 801
Washington, D. C. 20002
Adam.levi@dc.gov

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Internal Revenue Service
Associate Area Counsel
Attn: Christina Holland
2345 Grand
Kansas City, MO 64108-2663

I further certify that on this 2nd day of June, 2021, true and correct copies of these documents were mailed via first-class mail, postage prepaid, to the attached list of thirty (30) largest Class 3 creditors.

/s/ Richard E. Hagerty
Richard E. Hagerty

30 LARGEST CLASS 3 CREDITORS

MedStar Health: Washington Health Center
Georgetown Medical Center, Affiliated
Hospitals, Physicians & Physician Groups
c/o Joe Edmondson
Foley & Gardner LLP
3000 K St., NW Suite 600
Washington, DC 20007

Children's National Hospital
c/o Mary Anne Hilliard, Exec. VP & Chief Legal Officer
111 Michigan Avenue, NW
Washington, DC 20010

Providence Hospital/Ascension
c/o Christine Kocot McCoy, Exec. VP & General Counsel
101 South Hanley Rd., Suite 450
St. Louis, MO 63105

Howard University Hospital/Adventist
c/o Anita Jenkins CEO
2041 Georgia Avenue
Washington, DC 20060

United Medical Center
c/o Wayne Turnage
1350 Pennsylvania NW
Washington, DC 20004

D.C. Fire Department
Executive Office of the Mayor
1350 Pennsylvania Avenue, NW.
Washington, DC 20004

George Washington Hospital
George Washington MFA
Steve Bender, General Counsel
2150 Pennsylvania Ave. NW
Washington, DC 20004

Unity HealthCare
c/o Vince Keane
1220 12th St. SE, Suite 120
Washington, DC 20003

DentaQuest
c/o Dominion Dental Services
ATTN: Brad Terry, Director Legal Affairs
251 18th St South, Suite 900
Arlington, VA 22202

Beacon Health Options
c/o Jim Spink
200 State Street
Boston, MA 02110

National Rehabilitation Hospital (MedStar)
c/o John Rockwood, President and
Oliver Johnson VP & Gen. Counsel
102 Irving St. NW
Washington, DC 20010

SWH-Hadley, c/o Bridgepoint Healthcare
c/o Mark Ferrell CEO
4601 Martin Luther King
Washington, DC 20032

Dimensions Healthcare
Nathanial Richardson, Jr.
3001 Hospital Dr
Cheverly, MD 20785

DVA Healthcare Renal Care
James Hilger, Chief Accounting Officer
1231 Brentwood Rd, NE
Washington, DC 20018-1019

HSC Pediatric Center
c/o Nathaniel Beers, CEO
1731 Bunker Hill Rd, NE
Washington, DC 20017

LaClinica Del Pueblo
c/o Catalina Sol, Executive Director
2831 15th St
Washington DC 20009

Doctors Community Hospital
c/o Luminis Health, ATTN: Deneen Richmond, President
8118 Good Luck Rd
Lanham, MD 20706

Marys Center Maternal Child
c/o Maria Gomez, CEO
2333 Ontario Rd.
Washington, DC 20009

Anacostia River Emergency Physicians
c/o Russell Harris, President
1310 Southern Ave SE
Washington DC 20032-4623

Mid Atlantic Healthcare EMC Emergency Physicians
c/o Mark Smith, Owner
PO Box 7206
Philadelphia, PA 19101-7206

Harminster Sethi
1160 Varnum St NE Ste 318
Washington, DC 20017

Community of Hope Health Services
c/o Kelly Sweeney McShane, President
4 Atlantic Street SW
Washington, DC 20032

EXHIBIT A

Department of the Treasury -- Internal Revenue Service

CLOSING AGREEMENT ON FINAL DETERMINATION

COVERING SPECIFIC MATTERS

Under Section 7121 of the Internal Revenue Code, D.C. Chartered Health Plan, Inc., identifying number 52-1492499, taxpayer, and the Commissioner of Internal Revenue make the following closing agreement:

WHEREAS, on October 19, 2012, the Superior Court of the District of Columbia (the "Superior Court") issued an Order of Rehabilitation authorizing the Rehabilitation of D.C. Chartered Health Plan, Inc., in Civil Action No. 2012 CA 8227;

WHEREAS, Daniel L. Watkins was duly appointed as Special Deputy to the Rehabilitator for D.C. Chartered Health Plan, Inc., and has executed and submitted Form 56, Notice Concerning Fiduciary Relationship, to the Internal Revenue Service;

WHEREAS, the taxpayer filed forms 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return, for the taxpayer's 2008 civil penalty, 2010 quarterly, 2011 and 2012 fiscal years;

WHEREAS, the amount of tax owed for the 2008 civil penalty is \$2,550; the amount of tax owed for the 2010 quarterly is \$762.35 ; the amount of tax owed for the 2011 fiscal year is \$63,315; and the amount of tax owed for the 2012 fiscal year is \$118,778;

WHEREAS, penalties and interest have been assessed with respect to 2008 civil penalty, 2010 quarterly, 2011 and 2012 fiscal years, and interest continues to accrue on the balances due;

WHEREAS, all litigation relating to the Rehabilitation has now been resolved, and Mr. Watkins is in a position to close the estate;

WHEREAS, there are not sufficient funds remaining in the estate to pay the balances due for the 2008 civil penalty, 2010 quarterly, 2011 and 2012 fiscal years in full after creditors with senior liens are paid;

WHEREAS, the taxpayer entered into an Asset Purchase Agreement with another entity on February 8, 2013 and consequently ended all revenue-producing operations; and

WHEREAS, the parties wish to resolve the payment of the taxpayer's 2008, 2010, 2011 and 2012 Federal income tax liabilities.

NOW IT IS HEREBY DETERMINED AND AGREED for Federal income tax purposes that:

(1) Following the Superior Court's entry of a final, non-appealable Order approving this Agreement, the taxpayer shall make a non-refundable payment of \$185,405.35 to the Commissioner. This payment does not entitle the taxpayer to an allowable deduction for any taxable year. This amount will fully pay the civil penalty for 2008, quarterly tax for 2010, and income tax owed for the taxpayer's 2011 and 2012 fiscal years totaling \$2,550, \$762.35, \$63,315 and \$118,778, respectively.

(2) The taxpayer shall not be liable for any IRC penalties, and the Commissioner will abate all penalties on the taxpayer's accounts for its 2008 civil penalty, 2010 quarterly tax, 2011 and 2012 Federal income tax liabilities.

(3) The taxpayer shall not be liable for any interest assessed or accruing on the 2008 civil penalty, 2010 quarterly tax, 2011 and 2012 Federal income tax liabilities. However, the Commissioner is unable to abate the interest assessed on the taxpayer's accounts for its 2008 civil penalty, 2010 quarterly tax, 2011 and 2012 Federal income tax liabilities. The Commissioner agrees not to take any action to collect these amounts and will allow the interest to be written off when the statute of limitations on collection expires. The statute of limitations on collection will expire on May 9, 2021 for 2008, May 16, 2021 for 2010, March 30, 2025 for 2011, and February 09, 2025 for the 2012 liabilities, respectively.

This agreement is final and conclusive except:

(1) the matter it relates to may be reopened in the event of fraud, malfeasance or misrepresentation of material fact;

(2) it is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions notwithstanding any other law or rule of law except Code section 7122; and

(3) if it relates to a taxable period ending after the date of this agreement, it is subject to any law, enacted after the agreement date, that applies to that taxable period.

By signing, the above parties certify that they have read and agreed to the terms of this document.

Taxpayer: DC CHARTERED HEALTH PLAN, INC.

By: *Daniel L. Watkins*

Date Signed *4/25/21*

Daniel L. Watkins

Title: SPECIAL DEPUTY REHABILITATOR

Commissioner of Internal Revenue

By: *Cynthia Adams*

Date Signed *MAY 19 2021*

Title: *Technical Services Group Manager*

I have examined the specific matters involved and recommend the acceptance of the proposed agreement.

Debra A. Morgan 5/10/2021
(Receiving Officer) (Date)

Bankruptcy Specialist

(Title)

I have reviewed the specific matters involved and recommend approval of the proposed agreement.

Lauren Postle-Wallman 5/17/2021
(Reviewing Officer) (Date)

Revenue Agent Reviewer
(Title)